

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

MAXIMILLIAN KLEIN, et al.,

Plaintiffs,

v.

FACEBOOK, INC.,

Defendant.

Case No. 20-cv-08570-LHK

[PROPOSED] ORDER GRANTING  
PLAINTIFF BANKS KUPCHO'S MOTION  
TO APPOINT SHANA E. SCARLETT OF  
HAGENS BERMAN SOBOL SHAPIRO LLP  
AND BRIAN D. CLARK OF LOCKRIDGE  
GRINDAL NAUEN P.L.L.P. INTERIM CO-  
LEAD COUNSEL

This document relates to:

*Kupcho v. Facebook, Inc.*, No. 20-cv-08815-  
LHK

1 Now before the Court is Plaintiff Rachel Banks Kupcho's Motion to Appoint Shana E.  
2 Scarlett of Hagens Berman Sobol Shapiro LLP ("Hagens Berman") and Brian D. Clark of Lockridge  
3 Grindal Nauen P.L.L.P. ("LGN") Interim Co-Lead Counsel.

4 This motion relates to an antitrust case alleging defendant Facebook, Inc., engaged in  
5 predatory and exclusionary conduct to monopolize the Social Network and Social Media markets to  
6 harm competition and consumers.

7 The Court concludes that interim co-lead counsel for plaintiff should be appointed in order to  
8 achieve efficiency and economy in what is likely to be expensive and complicated litigation, while  
9 not jeopardizing fairness to the parties. For these reasons, the Court concludes that any subsequently  
10 filed cases on behalf of Facebook users (the consumer class) should be consolidated with this action  
11 and subject to this leadership structure to avoid unnecessary waste of judicial resources and  
12 additional cost and delay to the parties.

13 Plaintiff's counsel has moved the Court to appoint Shana E. Scarlett of the law firm Hagens  
14 Berman and Brian D. Clark of the law firm LGN as Interim Co-Lead Counsel, and approve as team  
15 leads a slate of attorneys from the two firms to head up key areas of the litigation, including experts,  
16 briefing, discovery, and trial.

17 The Court has carefully reviewed the motion and its accompanying submissions and has also  
18 considered the factors outlined in Federal Rule of Civil Procedure 23(g). The parties' submission  
19 demonstrates that plaintiff's proposed interim co-lead counsel and leadership structure satisfy the  
20 requirements of Rule 23(g). This includes the work counsel has done in investigating potential  
21 claims in this action; counsel's experience in handling class actions, other complex litigation, and the  
22 types of claims asserted in this action; counsel's knowledge of the applicable law; and the resources  
23 that counsel will commit to representing the proposed class.

24 IT IS HEREBY ORDERED THAT:

25 1. Pursuant to Rule 23(g)(3), the Court designates Shana E. Scarlett of Hagens Berman  
26 Sobol Shapiro LLP and Brian D. Clark of Lockridge Grindal Nauen P.L.L.P. as Plaintiffs' Interim  
27 Co-Lead Class Counsel for the class of Facebook users (consumers).

2. The Court designates the following team leads from Hagens Berman and LGN for each corresponding aspect of the litigation:

| <u>Team Role</u>   | <u>Team Leads</u>                 |
|--|-----------------------------------|
| Co-Lead Counsel  | Shana Scarlett & Brian Clark      |
| Experts  | Joe Bruckner                      |
| Briefing   | Elaine Byszewski                  |
| Offensive Discovery                                      | Arielle Wagner & Bree Van Engelen |
| Defensive Discovery (i.e.,<br>discovery from Plaintiffs) | Stephanie Chen                    |
| Trial  | Steve Berman                      |

3. Interim Co-Lead Class Counsel, supported by the above-designated team leads, shall be generally responsible for coordinating the activities of plaintiff and the proposed class on behalf of consumers in this litigation and shall have the sole authority to:

- a. Determine and present (in briefs, oral argument, or such other fashion as may be appropriate, personally or by designees) to the Court and opposing parties the position of plaintiff and the proposed class on all matters arising during pretrial proceedings;
- b. Coordinate the initiation and conduct of discovery on behalf of plaintiff and the proposed class consistent with the requirements of Rule 26, including the preparation of joint interrogatories and requests for production of documents and the examination of witnesses in depositions;
- c. Conduct settlement negotiations on behalf of plaintiff and the proposed class;
- d. Delegate specific tasks to other counsel in a manner to ensure that pretrial preparation for plaintiff and the proposed class is conducted efficiently and effectively;
- e. Enter into stipulations with opposing counsel as necessary for the conduct of the litigation;
- f. Maintain adequate time and disbursement records covering services as interim co-lead counsel;
- g. Monitor the activities of co-counsel to ensure that schedules are met and unnecessary expenditures of time and funds are avoided; and

1 h. Perform such other duties as may be incidental to proper coordination of  
2 plaintiff and the proposed class pretrial activities or authorized by future order of the Court.

3 4. In no event shall any document be filed, or any discovery be served, on behalf of  
4 plaintiff and the proposed class without the approval of Plaintiffs' Interim Co-Lead Counsel, or leave  
5 of Court, and any such filing may be stricken.

6 5. Subject to further order of this Court, all subsequently filed cases on behalf of  
7 Facebook users involving common questions of law and fact shall be consolidated.

8 6. This Order shall apply to each subsequently filed class action alleging claims similar  
9 to those set forth in this action and brought on behalf of Facebook users.

10 IT IS SO ORDERED.

11 DATED:  
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HON. LUCY H. KOH  
UNITED STATES DISTRICT JUDGE  
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